



**STATE OF TENNESSEE  
DEPARTMENT OF HUMAN SERVICES**

CITIZENS PLAZA BUILDING  
400 DEADERICK STREET  
NASHVILLE, TENNESSEE 37243-1403

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[www.tn.gov/humanservices](http://www.tn.gov/humanservices)

**BILL HASLAM**  
GOVERNOR

**DANIELLE W. BARNES**  
COMMISSIONER

December 19, 2017

Kevin Cane, Board Chair  
Victorious Life Church of Nashville Incorporated  
2618 Buchanan Street  
Nashville, Tennessee 37208-1942

Dear Reverend Cane:

The Department of Human Services (DHS) - Audit Services Division staff conducted an on-site unannounced review of the Child and Adult Care Food Program (CACFP) at Victorious Life Church of Nashville Inc. (Sponsor), for Application Agreement Number 00-103, on May 1, 2017. We reviewed the Sponsor's records of reimbursements and expenditures for the period of November 1, 2016 through March 31, 2017. The purpose of the review was to determine if the Sponsor complied with *Title 7 of the Code of Federal Regulations* (CFR) applicable parts, the application agreement, and applicable federal and state regulations.

**Background**

CACFP Sponsors utilize meal count sheets to record the number of meals served for breakfast, lunch, supper and supplements meals served. Meals served by participating Sponsors must meet the minimum guidelines set by the United States Department of Agriculture (USDA) and DHS to be eligible for reimbursement. The CACFP Sponsor reports the number of meals served through the DHS Tennessee Information Payment System (TIPS) system to seek reimbursement. We inspected meal counts sheets for our test period and reconciled the meals claimed to the meals reported as served for each meal service. We also assessed compliance with civil rights requirements and observed a meal service.

Based on our review of the Sponsor's records and information provided, the Sponsor had three feeding sites operating during the test month of February and March 2017. Of those three feeding sites, we selected the Hunter's Lane feeding site for the month of February and conducted an unannounced feeding site visit review. During the month of March we conducted unannounced visits of all (3) approved feeding sites. Our review disclosed the following:

**1. No feeding was observed for the Sponsor's three approved feeding sites, and school officials from two of the three feeding sites dispute that the Sponsor was operating an after school feeding program**

Condition

The Sponsor reported that they fed band and football team members at the Arise@Hunter's Lane site.

DHS Audit Services Division staff attempted to monitor a snack at Arise@ Hunter's Lane on February 24, 2017. Upon arrival at the site, they were informed that the band members were on a school sponsored field trip to Louisiana and that the football team was not currently practicing after school.

Due to the missed attempt to observe a meal, DHS staff members attempted to see a meal service at all the active sites on March 3, 2017.

- Arise@Cane Ridge did not have meal service on March 3, 2017. The band director, Mr. Croft, stated that the band was not available that day and that meals had not been served since February 2017.
- Arise@ John Overton staff stated they were unaware children were being fed at the school. The staff was not able to provide any additional details. DHS staff walked the grounds of the school to attempt to locate the children participating in meal service, but no meals were served.
- At Arise@ Hunter's Lane High School, DHS staff were not able to see meal during the approved service time, because no meals were served.

We attempted to observe a meal service as follows:

<b>Location</b>	<b>Date</b>	<b>Meal</b>	<b>Approved Time</b>	<b>Monitor Arrival Time</b>
Arise@ Hunters Lane High School	2/24/17	Snack	2:15 – 2:45 p.m.	1:52 p.m.
Arise@ Cane Ridge High School	3/3/17	Snack	2:15 – 2:45 p.m.	1:35 p.m.
Arise@ John Overton High School	3/3/17	Snack	2:15 – 2:45 p.m.	1:30 p.m.
Arise@ Hunters Lane High School	3/3/17	Snack	2:15 – 2:45 p.m.	1:45 p.m.

No feeding was observed by monitors at the Sponsor's three approved feeding sites, and school officials from two of the three feeding sites dispute that the Sponsor was operating an after school feeding program. When no feeding was observed, we made inquiries from school officials to determine if they were aware of the existence of the program. School official responses for each feeding site are detailed below:

**Cane Ridge High School:** The football team representative advised us that the team had not eaten any meals since the end of summer of 2016. The band director stated that the band did not eat between July 29, 2016, and February 1, 2017. The Sponsor submitted claims for the months of November 2016 through March 2017.

**Cane Ridge High School Disallowed Meal Costs**

Month	Reimbursed Costs	Disallowed Meal Costs
November 2016	\$12,446.73	Finding #2
December 2016	\$13,743.03	Finding #2
January 2017	\$13,000.85	Finding #2
February 2017	\$13,016.23	\$13,016.23
March 2017	\$6,118.58	\$6,118.58
<b>Total</b>	<b>\$58,325.42</b>	<b>\$19,134.81</b>

**Overton High School:** The Principal signed the monitor's Exit Conference Memorandum Form stating that no meals were being served at her school for the after school program. The Sponsor submitted claims for the months of November 2016 through March 2017.

**Overton High School Disallowed Meal Costs**

Month	Reimbursed Costs	Disallowed Meal Costs
November 2016	\$15,032.25	Finding #2
December 2016	\$15,413.43	Finding #2
January 2017	\$16,425.43	Finding #2
February 2017	\$15,584.03	\$15,584.03
March 2017	\$9,044.35	\$9,044.35
<b>Total</b>	<b>\$71,499.49</b>	<b>\$24,628.38</b>

Based on a lack of an observable meal service at the feeding sites and comments from school officials that afterschool feeding programs were not occurring at the Cane Ridge High School and Overton High School we disallowed all meals claimed for the period of November 2016 to March 2017 are noted below:

Total disallowed meal costs for this finding for Cane Ridge High School and Overton High School were \$19,134.81 and \$24,628.38, respectively for a total of \$43,763.19.

**Criteria**

The *Code of Federal Regulations*, Title 7, Section 226.10(f) states "If, based on the results of audits, investigations, or other reviews, a State agency has reason to believe that an institution, child or adult care facility, or food service management company has engaged in unlawful acts with respect to Program operations, the evidence found in audits, investigations, or other reviews is a basis for non-payment of claims for reimbursement."

The *Code of Federal Regulations*, Title 7, Section 226.14(a) states in part that "State agencies shall disallow any portion of a claim for reimbursement and recover any payment to an institution not properly payable under this part. . . ."

### Recommendation

The Sponsor should pay back the disallowed meal costs noted in this finding.

## **2. The Sponsor did not provide receipts for non-food and food expenses for 3 months**

### Condition

The Sponsor verbally indicated that all food program purchases were made with up to four (4) different food service vendor companies and that no purchases were made via grocery stores, for example. The Sponsor provided the program monitor receipts for the food service vendor companies while on-site for the months of February and March 2017. For the month of October 2016, the Sponsor was not reimbursed due to a late claim so we did not question any reimbursements for that month.

The Sponsor did not provide receipts to support non-food and food expenses for the period from November 1, 2016, to January 31, 2017. Based on the results of our testing, we questioned all program reimbursements for the period from November 2016 to January 2017, which totaled \$121,754.63.

The documents were requested during the May 1, 2017 Sponsor visit and via e-mail after the on-site visit. The Sponsor verbally acknowledged receipt of the request, while the auditor was on-site. In addition, an e-mail reminder was submitted on May 16, 2017 to which we received no response.

### Criteria

The *Code Federal Regulations*, Title 7, Section 226.10(c) states, in part:

...Claims for Reimbursement shall report information in accordance with the financial management system established by the State agency, and in sufficient detail to justify the reimbursement claimed and to enable the State agency to provide the final Report of the Child and Adult Care Food Program (FNS 44) required under §226.7(d). In submitting a Claim for Reimbursement, each institution shall certify that the claim is correct and that records are available to support that claim.

### Recommendation

The Sponsor should ensure that receipts for non-food and food expenses records are available to support the claim.

## **3. The Sponsor submitted questionable documentation as support for one month's Claim for Reimbursement**

### Condition

Upon request from DHS Audit Services staff, the Sponsor provided meal count forms for the three feeding sites listed as active in TIPS. For site 0019: Hunters Lane High School, the Sponsor submitted meal count sheets for March 2017. Our review of the meal count sheets submitted for March 3, 2017, the date of our unannounced visit, disclosed that the Sponsor marked that 66 children were present, 66 children were served a snack meal, and 64

children were served a supper meal. Based on our unannounced visit on March 3, 2017 during the approved time for the snack meal, we observed that no children were present and no meals were served. Therefore, the Sponsor's meal count sheets are inaccurate and possibly falsified.

In addition, we noted that the number of meals claimed each day rarely varied. The Sponsor claimed the same 66 children almost every day in March 2017. This is evidence of "block claiming". A block claim is defined as a claim in which the number of meals claimed at a facility for one or more meal types is the same for 15 consecutive operational days during a claiming period.

All 917 snacks and 907 supper meals claimed for Hunters Lane High School for the month of March 2017 are therefore disallowed.

#### **Hunters Lane High School Disallowed Meal Costs**

<b>Month</b>	<b>Reimbursed Costs</b>	<b>Disallowed Meal Costs</b>
March 2017	\$3,863.35	\$3,863.35

#### Criteria

The *Code Federal Regulations*, Title 7, Section 226.10(c) states, in part:

... Claims for Reimbursement shall report information in accordance with the financial management system established by the State agency, and in sufficient detail to justify the reimbursement claimed and to enable the State agency to provide the final Report of the Child and Adult Care Food Program (FNS 44) required under §226.7(d). In submitting a Claim for Reimbursement, each institution shall certify that the claim is correct and that records are available to support that claim.

#### Recommendation

The Sponsor should ensure that only meals served are claimed for reimbursement.

#### **4. The Sponsor reported incorrect meal counts**

##### Condition

The Claim for Reimbursement for the test month of February reported that Arise@ Hunters Lane High School had 2,535 supplements and 2,519 suppers served. However, based on our review of the Sponsor's records, we found that Arise@ Hunters Lane High School had 2,531 supplements and 2,519 suppers served prior to any meal disallowances. (See Exhibit B)

The Claim for Reimbursement for the test month of March reported 4,535 supplements served and 4,462 suppers served. However, based on our review of the Sponsor's records, we found that there were 4,533 supplements and 4,480 suppers served prior to any meal disallowances. (See Exhibits C, D, E and F)

Based on the results of our testing, the Sponsor over reported four supplements on the February 2017 claim; and over reported two supplements and under reported 18 suppers on the March 2017 claim.

#### Criteria

The *Code Federal Regulations*, Title 7, Section 226.10(c) states, in part:

... Claims for Reimbursement shall report information in accordance with the financial management system established by the State agency, and in sufficient detail to justify the reimbursement claimed and to enable the State agency to provide the final Report of the Child and Adult Care Food Program (FNS 44) required under §226.7(d). In submitting a Claim for Reimbursement, each institution shall certify that the claim is correct and that records are available to support that claim.

#### Recommendation

The Sponsor should ensure the claims are accurately keyed into the TIPS system.

#### **Disallowed Meals Cost**

Based on our review, we determined that the Sponsor's noncompliance with the applicable Federal and State regulations that govern the CACFP resulted in disallowed meals cost of \$169,384.61.

#### **Corrective Action**

Victorious Life Church of Nashville Inc. must complete the following actions within 30 days from the date of this report:

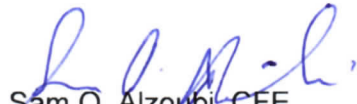
- Remit a check payable to the Tennessee Department of Human Services in the amount of \$169,384.61.
- Login to the Tennessee Information Payment System (TIPS) and revise the claims submitted for each site for November 2016 through March 2017, which contains the claim data from the enclosed exhibit.
- Prepare and submit a corrective action plan to address the deficiencies identified in this report. The corrective action plan template is attached. Please return the corrective action plan to:  
[AuditServices.CAPS.DHS@tn.gov](mailto:AuditServices.CAPS.DHS@tn.gov)

If you have questions relative to the corrective action plan please contact:

Allette Vayda, Director  
Child and Adult Care Food Program  
8th Floor Citizens Plaza Building  
400 Deaderick Street  
Nashville, Tennessee 37243  
[Allette.Vayda@tn.gov](mailto:Allette.Vayda@tn.gov)  
(615) 313-3769

We appreciate the assistance provided during this review. If you have any questions regarding this report, please contact Jackie Yokley, Audit Director 2, at 615-837-5035 or [Jackie.D.Yokley@tn.gov](mailto:Jackie.D.Yokley@tn.gov).

Sincerely,



Sam O. Alzoubi, CFE  
Director of Audit Services

Exhibit

cc: Pamela Cane, Executive Director/Owner  
Allette Vayda, Director, Child and Adult Care Food Programs  
Constance Moore, Program Specialist, Child and Adult Care Food Program  
Marty Widner, Program Specialist, Child and Adult Care Food Program  
Comptroller of the Treasury, State of Tennessee

**Exhibit**

Site	Month	Meal	Meal Reported on Claim	Reconciled to Meal Count Sheets	Finding	Disallowed Meals Cost
Cane Ridge	November-16	Supplement	2,943	0	Finding #2	2,530.98
Cane Ridge	November-16	Supper	2,925	0	Finding #2	9,915.75
Hunters Lane	November-16	Supplement	2,678	0	Finding #2	2,303.08
Hunters Lane	November-16	Supper	2,666	0	Finding #2	9,037.74
Overton	November-16	Supplement	3,537	0	Finding #2	3,041.82
Overton	November-16	Supper	3,537	0	Finding #2	11,990.43
Cane Ridge	December-16	Supplement	3,252	0	Finding #2	2,796.72
Cane Ridge	December-16	Supper	3,229	0	Finding #2	10,946.31
Hunters Lane	December-16	Supplement	2,816	0	Finding #2	2,421.76
Hunters Lane	December-16	Supper	2,791	0	Finding #2	9,461.49
Overton	December-16	Supplement	3,657	0	Finding #2	3,145.02
Overton	December-16	Supper	3,619	0	Finding #2	12,268.41
Cane Ridge	January-17	Supplement	3,067	0	Finding #2	2,637.62
Cane Ridge	January-17	Supper	3,057	0	Finding #2	10,363.23
Hunters Lane	January-17	Supplement	2,949	0	Finding #2	2,536.14
Hunters Lane	January-17	Supper	2,930	0	Finding #2	9,932.70
Overton	January-17	Supplement	3,935	0	Finding #2	3,384.10
Overton	January-17	Supper	3,847	0	Finding #2	13,041.33
Hunters Lane	February-17	Supplement	2,535	2,531	Finding #1	3.44
Hunters Lane	February-17	Supper	2,519	2,519	Finding #1	0.00
Cane Ridge	February-17	Supplement	3,077	0	Finding #1	2,646.22
Cane Ridge	February-17	Supper	3,059	0	Finding #1	10,370.01
Overton	February-17	Supplement	3,745	0	Finding #1	3,220.70
Overton	February-17	Supper	3,647	0	Finding #1	12,363.33
Cane Ridge	March-17	Supplement	1,462	0	Finding #1	1,257.32
Cane Ridge	March-17	Supper	1,434	0	Finding #1	4,861.26
Hunters Lane	March-17	Supplement	917	0	Finding #3	788.62
Hunters Lane	March-17	Supper	907	0	Finding #3	3,074.73
Overton	March-17	Supplement	2,156	0	Finding #1	1,854.16
Overton	March-17	Supper	2,121	0	Finding #1	7,190.19
<b>Total Disallowed Meals Cost</b>						<b>\$169,384.61</b>





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COMMISSIONER

December 19, 2017

Kevin Cane, Board Chair  
Victorious Life Church of Nashville Incorporated  
2618 Buchanan Street  
Nashville, Tennessee 37208-1942

**Notice of payment due to findings disclosed in the monitoring report dated December 19, 2017 for  
Child and Adult Care Food Program (CACFP).**

Institution Name:	Victorious Life Church of Nashville Incorporated
Institution Address:	2030 25th Avenue N Nashville, Tennessee 37208-1942
Agreement Number:	00-103
Amount Due:	<b>\$169,384.61</b>
Due Date:	January 19, 2018

Based on the monitoring report issued by the Audit Services Division within the Tennessee Department of Human Services, the Community and Social Services- Food Programs- CACFP & SFSP management has agreed with the findings which requires your institution to reimburse the Department of Human Services for disallowed meals cost.

Please remit a check or money order payable to the **Tennessee Department of Human Services** in the amount of \$169,384.61 by the due date to:

**Tennessee Department of Human Services  
Fiscal Services 11<sup>th</sup> Floor  
Citizens Plaza Building  
400 Deaderick Street  
Nashville, Tennessee 37243-1403**

Please note that the unallowed cost / overpayment of the CACFP is subject to an interest charge. The interest charge will be waived if the payment is received by the due date. If payment is not received by the end of 5th day of the due date, an interest charge may be added to the original amount due and will be billed to your entity.

If you have any questions regarding this notice, please feel free to contact Allette Vayda, Director, Community and Social Services- Food Programs- CACFP & SFSP at (615) 313-3769 or [Allette.Vayda@tn.gov](mailto:Allette.Vayda@tn.gov)

Thank you for your attention

**Corrective Action Plan for Monitoring Findings**

**Instructions:** Please print in ink or type the information to complete this document. Enter the date of birth for each Responsible Principal and/or Individual in Section B. Attach the additional documentation requested. Enter your name, title and date of signature on the last page. Please sign your name in ink.  
**Please return ALL pages of the completed Corrective Action Plan form.**

**Section A. Institution Information**

Name of Sponsor/Agency/Site: Victorious Life Church of Nashville, Inc.	Agreement No. 00103	<input type="checkbox"/> SFSP <input checked="" type="checkbox"/> CACFP
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Mailing Address: 2618 Buchanan Street Nashville, Tennessee 37208-1942

**Section B. Responsible Principal(s) and/or Individual(s)**

Name and Title: Kevin Cane, Board Chair	Date of Birth:    /    /
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**Section C. Dates of Issuance of Monitoring Report/Corrective Action Plan**

Monitoring Report: 12/19/2017	Corrective Action Plan: 12/19/2017
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**Section D. Findings**

Findings:

1. No feeding was observed for the Sponsor's three approved feeding sites, and school officials from two of the three feeding sites dispute that the Sponsor was operating an after school feeding program
2. The Sponsor did not provide receipts for non-food and food expenses for 3 months
3. The Sponsor submitted questionable documentation as support for one month's Claim for Reimbursement
4. The Sponsor reported incorrect meal counts

The following measures will be completed within **30 calendar days** of my institution's receipt of this corrective action plan:

**Measure No. 1: No feeding was observed for the Sponsor's three approved feeding sites, and school officials from two of the three feeding sites dispute that the Sponsor was operating an after school feeding program**

The finding will be fully and permanently corrected.

Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name:

Position Title:

Name:

Position Title:

Describe below the **step-by-step** procedures that will be implemented to correct the finding:

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When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

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Where will the Corrective Action Plan documentation be retained? Please identify below:

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How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

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**Measure No.2: The Sponsor did not provide receipts for non-food and food expenses for 3 months**

The finding will be fully and permanently corrected.  
Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name: Position Title:

Name: Position Title:

Describe below the **step-by-step** procedures that will be implemented to correct the finding:

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When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

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Where will the Corrective Action Plan documentation be retained? Please identify below:

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How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

**Measure No. 3: The Sponsor submitted questionable documentation as support for one month's Claim for Reimbursement**

The finding will be fully and permanently corrected.

Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name:

Position Title:

Name:

Position Title:

Describe below the **step-by-step** procedures that will be implemented to correct the finding:

When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

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Where will the Corrective Action Plan documentation be retained? Please identify below:

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How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

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**Measure No. 4: The Sponsor reported incorrect meal counts**

The finding will be fully and permanently corrected.  
Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name: Position Title:

Name: Position Title:

Describe below the **step-by-step** procedures that will be implemented to correct the finding:

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When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

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Where will the Corrective Action Plan documentation be retained? Please identify below:

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How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

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I certify by my signature below that I am authorized by the institution to sign this document. As an authorized representative of the institution, I fully understand the corrective measures identified above and agree to fully implement these measures within the required time frame. I also understand that failure to fully and permanently correct the findings in my institution's CACFP or SFSP will result in its termination from the program, and the placement of the institution and its responsible principals on the National Disqualified List maintained by the U.S. Department of Agriculture.

Printed Name of Authorized Institution Official:

Position:

Signature of Authorized Institution Official: \_\_\_\_\_

Date: / /

Signature of Authorized TDHS Official: \_\_\_\_\_

Date: / /

- (xi) The institution, one of its sponsored facilities, or one of the principals of the institution or its facilities has been convicted for any activity that indicates a lack of business integrity;

(c) Administrative review is also available if the State agency notifies the institution and responsible principal or responsible individual of the following actions: proposed disqualification of a responsible principal or responsible individual, denial of a budget, denial of a line item within a budget, downward adjustment of the amount approved in a budget, suspension of an institution's participation, denial of start-up or expansion funds, denial of a request for advanced payment, recovery of an advance in excess of a claim, denial of a claim for reimbursement (except for late submission), decision not to forward an exception request for payment of a late claim, overpayment demand, denial of a new or renewing institution's application for participation, denial of sponsored facility application, notice of proposed termination, claim denial, claim deadline exceptions and requests for upward adjustments to a claim, or any other action affecting an institutions participation or claim for payment.

3. All appeal requests must be presented in writing to the TDHS Division of Appeals and Hearings not later than 15 calendar days after the date the institution or sponsoring agency receives the notice of adverse administrative action.

4. The date of an institution's or sponsoring agency's receipt of a notice of suspension and/or proposed termination and disqualification will be governed by the federal regulation at 7 CFR Part 226.2. The notice must specify the action being proposed or taken and the basis for the action, and is considered to be received by the institution or day care home when it is delivered, sent by facsimile, or sent by email. If the notice is undeliverable, it is considered to be received by the institution, responsible principal or responsible individual, or day care home five days after being sent to the addressee's last known mailing address, facsimile number, or email address.

5. The TDHS Division of Appeals and Hearings will acknowledge the receipt of the appeal request within 10 calendar days of the receipt of the institution's or sponsoring agency's request for review. The written request for review should state if a fair hearing is requested or if a review of written information in lieu of a fair hearing is requested. If the appeal request from the institution or sponsoring agency does not specifically request a hearing, a review of written information in lieu of a hearing will occur. If a fair hearing is requested and the institution or sponsoring agency's representative fails to appear, the right to a personal appearance is waived.

6. If an institution or sponsoring agency does not request a fair hearing or a review of written information in lieu of the hearing within 15 calendar days from the date the institution or sponsoring agency receives a Notice of Proposed Termination, the TDHS will issue a letter advising the institution or sponsoring agency that it is terminated from the CACFP effective on the 16th calendar day following the institution's or sponsoring agency's receipt of the notice, and that the responsible principals and individuals of the institution or sponsoring agency are disqualified from participation.

7. To be considered for a fair hearing or for a review of written information in lieu of a fair



**Appeal Procedures for Child and Adult Care Food Program-Institutions**  
**Revised March 2017**

hearing, all written documents must be submitted to the TDHS Division of Appeals and Hearings not later than 30 days after receipt of the notice of adverse administrative action.

8. The action of the TDHS must remain in effect during the administrative review. The effect of this requirement on particular actions by TDHS is as follows:

(i) *Overpayment demand.* During the period of the administrative review, TDHS is prohibited from taking action to collect or offset the overpayment. However TDHS must assess interest beginning with the initial demand for remittance of the overpayment and continuing through the period of administrative review unless the administrative review official overturns the TDHS's action.

(ii) *Recovery of advances.* During the administrative review, TDHS must continue its efforts to recover advances in excess of the claim for reimbursement for the applicable period. The recovery may be through a demand for full repayment or an adjustment of subsequent payments.

(iii) *Program payments.* The availability of Program payments during an administrative review of the denial of a new institution's application, denial of a renewing institution's application, proposed termination of a participating institution's agreement, and suspension of an institution are addressed in paragraphs (c)(1)(iii)(D), (c)(2)(iii)(D), (c)(3)(iii)(D), (c)(5)(i)(D), and (c)(5)(ii)(E), respectively, of 7 CFR §226.6.

9. The institution or sponsoring agency must refute the charges contained in the notice during the fair hearing or in the written information that is provided in lieu of the hearing.

10. The institution and the responsible principals and responsible individuals may retain legal counsel, or may be represented by another person.

11. If a fair hearing is requested, the institution or sponsoring agency will be notified in writing of the time, date and place of the fair hearing at least 10 calendar days in advance.

12. Any information which supports an adverse administrative action taken by the TDHS shall be available to the institution or sponsoring agency for inspection from the date of the receipt of the request for a fair hearing or a review of written information in lieu of the hearing.

13. In accordance with 7 CFR Part 226.6 (k)(8), the TDHS Division of Appeals and Hearings must conduct the administrative review of the proposed disqualification of the responsible principals and responsible individuals as part of the administrative review of the application denial, proposed termination, and/or proposed disqualification of the institution with which the responsible principals or responsible individuals are associated. However, at the administrative review official's discretion, separate administrative reviews may be held if the institution does not request an administrative review or if either the institution or the responsible principal or responsible individual demonstrates that their interests conflict.

14. The procedures contained in the Uniform Administrative Procedures Act found at TCA 4-5-301 et seq. shall be followed in rendering a decision on all appeals. The decision of the hearing officer is the final administrative determination to be afforded to the institution or sponsoring agency, and shall be rendered in a timely manner not to exceed 60 calendar days from the date of the receipt of the request for a fair hearing.

15. The processing limits for administrative appeals MUST be met. In the event a continuance is requested by a party, one continuance may be granted at the Hearing Official's discretion. This

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continuance shall not be for a period longer than ten (10) calendar days unless there are exceptional circumstances. Exceptional circumstances must be detailed in the order of continuance and the order must contain a date certain for the hearing, to be set as soon as possible. A report of pending CACFP desk review and fair hearing requests will be generated and reviewed daily by the Clerk's Office and the Legal Director for Appeals and Hearings who will monitor the dates for timeliness. In the event a decision has not been rendered within forty-five (45) calendar days of the date of receipt of the request for fair hearing or desk review, the Legal Director for Appeals and Hearings or their back-up shall notify the hearing official to take appropriate action.

16. All requests for a fair hearing or for a review of written information in lieu of a hearing must be submitted to:

**Tennessee Department of Human Services**  
**Division of Appeals and Hearings**  
**PO Box 198996, Clerk's Office**  
**Nashville, TN 37219-8996**  
**Fax: (615) 248-7013 or (866) 355-6136**  
**E-mail: AppealsClerksOffice.DHS@tn.gov**

17. If a termination action is upheld by the hearing officer, the TDHS will issue a letter to the institution or sponsoring agency and its responsible principals and individuals advising that the termination and disqualification are effective on the date of the ruling issued by the hearing officer. The agency maintains searchable records of all administrative reviews and their dispositions for a period of five (5) years.

18. As required by 7 CFR Part 226.6 (c)(7), each disqualified institution, sponsoring agency, principal and individual will be placed on the National Disqualified List maintained by the U.S. Department of Agriculture (USDA). Once included on the National Disqualified List, an institution, sponsoring agency, principal and individual shall remain on the list until such time as the USDA, in consultation with the TDHS, determines that the serious deficiencies that led to their placement on the list have been corrected, or until seven years have elapsed since they were disqualified from participation. However, if the institution, sponsoring agency, principal or individual has failed to repay debts owed under the program, they will remain on the list until the debt has been paid.